

EXHIBIT 1

Respondent's Response to Petitioner's Emergency Motion for a
Temporary Restraining Order

Clerk's Office
U.S. District Court for the
Western District of Louisiana
515 Murray Street, Ste. 105
Alexandria, LA 71301

Dear Clerk's Office,

I represent the federal government in the following matter: *Trish Mack, as next friend of V.M.L., a minor v. Mellissa Harper, et al.*, 1:25-cv-00550. I respectfully submit the attached papers opposing Petitioner's motion for a temporary restraining order, filed after business hours last night. I requested filing privileges after Petitioner filed this suit but the request is pending due to this office being closed for the night. Due to the time-sensitive nature of this matter, I respectfully request that this office accept for filing the following attached documents:

- Notice of Appearance for federal government counsel with attachment;
- Respondents' Memorandum of Law in Opposition to Petitioner's Motion for a Temporary Restraining Order;
- Exhibit A, Handwritten Letter of Jenny Carolina Lopez [Villela]; and
- Certificate of Service.

Thank you for your consideration.

April 25, 2025

Sincerely,

/s Joseph McCarter
Trial Attorney,
U.S. Dept. of Justice
Civil Division
202-746-8537
Joseph.A.McCarter@usdoj.gov

UNITED STATES DISTRICT COURT
for the
Western District of Louisiana

TRISH MACK, as next friend of V.M.L., a minor,)
Plaintiff)
v.) Case No. 1:25-cv-00550
MELLISSA HARPER, et al.,)
Defendant)

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for:

Mellissa Harper, Kenneth Genalo, Todd Lyons, Kristi Noem, Pamela Bondi

Date: 04/25/2025

s/ Joseph McCarter
Attorney's signature

Joseph McCarter, MD Bar # 2311290014

Printed name and bar number

PO Box 878
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Washington, DC 20044

Address

Joseph.A.McCarter@usdoj.gov

E-mail address

(202) 746-8537

Telephone number

FAX number

Attachment to Notice of Appearance

I requested filing privileges with the Western District of Louisiana at approximately 1:30 a.m. CST on April 25, 2025. I understand that as an attorney representing the United States in this action, I am not required to have formal or general admission. Local Rule 83.2.2(D). That request is currently pending due to the clerk's office being closed for the night. Due to the time-sensitive nature of this filing, I respectfully request that the clerk's office accept this filing and approve my pending request for ECF privileges.

April 25, 2025

Sincerely,

/s Joseph McCarter
Trial Attorney,
U.S. Dept. of Justice
Civil Division
202-746-8537
Joseph.A.McCarter@usdoj.gov

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

TRISH MACK, as next friend of V.M.L., a)
minor,)
Petitioner,)
v.) Case No. 1:25-cv-00550
MELLISSA HARPER, et al.,)
Respondents.)

**RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S
MOTION FOR A TEMPORARY RESTRAINING ORDER**

Respondents respectfully submit this opposition to Petitioner's request for a temporary restraining order (TRO), ECF 2-1.

BACKGROUND

V.M.L. is a minor United States Citizen child in the lawful custody of her mother, Jenny Carolina Lopez Villela ("Ms. Lopez Villela"). Ms. Villela is scheduled to be removed on April 25, 2025, along with V.M.L. ECF 2-1 at 2. Ms. Lopez Villela has made known to ICE officials that she wants to retain custody of V.M.L. and for V.M.L. to go with Ms. Lopez Villela to Honduras. *See Ex. A, Handwritten Letter from Ms. Lopez Villela.* Importantly, the rough translation of that letter is: "I, Jenny Carolina Lopez [Villela], will bring my daughter, Valentina Mendez Lopez, with me to Honduras." *See Ex. A.*

Petitioner Mack is an associate of a man who claims to be V.M.L.'s father. This man executed a Provisional Custody by Mandate delegating his purported custody of V.M.L. to Petitioner Mack. ECF 2-1 at 2-3. But the man claiming to be V.M.L.'s father and Petitioner Mack

have not presented themselves to Immigration and Customs Enforcement (“ICE”) and identified themselves, despite requests that they do so. *See* ECF 2-1 at 4; ECF 1 ¶ 26.

LEGAL STANDARD

A petitioner seeking a TRO must establish: “(1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest.” *Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011). When the government is a respondent, the last two factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

Each TRO element weighs in the government’s favor.

First, Petitioner is unlikely to succeed on the merits of her claims. *See* ECF 1. V.M.L. is in the custody of her legal custodian – her mother. Both Petitioner Mack and the man claiming to be V.M.L.’s father have demonstrated considerable hesitation regarding the inquiries into their respective immigration statuses. *See* ECF 2-1 at 4; ECF 1 ¶ 26. Importantly, neither person suggests that they were prepared to prove their identities to ICE.¹ Further, Ms. Lopez Villela has made known that she does not want V.M.L. released from her custody. Ex. A. Thus, ICE has not acted unlawfully by refusing to take V.M.L. away from her mother or to place V.M.L. in the custody of individuals who seemingly are not prepared to establish their identities.

¹ On information and belief, Petitioner Mack and the man claiming to be V.M.L.’s father were offered the opportunity to provide proof of identity. Neither person indicated they would take advantage of that opportunity. If necessary, a subsequent declaration may be submitted to establish those facts.

Second, V.M.L. is not at substantial risk of irreparable harm if kept with her lawful custodian mother. Indeed, taking V.M.L. away from her mother and placing her in the custody of individuals who are seemingly unprepared to establish their identities would pose a greater risk of harm. It is therefore in the best interest of V.M.L. that she remain in the lawful custody of her mother.

Third, the public interest weighs in favor of keeping V.M.L. together with her mother because Ms. Lopez Villela is the only individual ICE knows to be a legal custodian of V.M.L. Ms. Lopez Villela has expressly indicated her choice to keep V.M.L. with her, meaning that the equities as to V.M.L. preponderate in favor of remaining with her mother. Ex. A. Petitioner Mack, the purported Next Friend, does not suggest that she speaks for Ms. Lopez Villela, nor should such Next Friend status entitle Petitioner Mack to subvert the express, written desire of Ms. Lopez Villela.

Accordingly, a TRO is not warranted here.

CONCLUSION

The Court should deny Petitioner's TRO motion.

Dated: April 25, 2025

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General
Civil Division

ERNESTO MOLINA
Deputy Director
Office of Immigration Litigation
Civil Division

/s/ Joseph A. McCarter
JOSEPH A. MCCARTER*
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* ECF privileges pending

Attorneys for Respondent

EXHIBIT A

Handwritten Letter of Jenny Carolina Lopez [Villela]

Yo : Jenny Carolina Lopez

me llevere a mi hija

Valentina Mendez Lopez

Conmigo a Honduras

04/24/2025 - 18:23 PM

Jenny Carolina Lopez Villela

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

TRISH MACK, as next friend of V.M.L., a)
minor,)
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v.) Case No. 1:25-cv-00550
MELLISSA HARPER, et al.,)
Respondents.)
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 25th day of April 2025, I filed via facsimile the following documents: Respondents' Opposition to Petitioner's Motion for a Temporary Restraining Order and Exhibit A, Handwritten Letter of Jenny Carolina Lopez [Villela]. I also served a copy of these documents via e-mail on Petitioner's counsel, Matthew S. Vogel and Gracie H. Willis.

/s/ Joseph A. McCarter
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*ECF Privileges Pending

Attorney for Respondents